



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0468]

RIN 1625-AA00

Safety Zone; Severn River, Sherwood Forest, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Severn River. This action is necessary to provide for the safety of life on the navigable waters of Sherwood Forest near Annapolis, MD, during a fireworks display on July 3, 2017. This action will prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from 8 p.m. on July 3, 2017, until 10:30 p.m. on July 7, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0468 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Mr. Ronald Houck, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410-576-2674, e-mail Ronald.L.Houck@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On December 29, 2016, the Sherwood Forest Club, Inc. of Sherwood Forest, MD notified the Coast Guard that from 9:15 p.m. to 10 p.m. on July 3, 2017, it will be conducting a fireworks display launched from the end of the Sherwood Forest Club main pier located adjacent to the Severn River, approximately 200 yards east of Brewer Pond in Sherwood Forest, MD. In the event of inclement weather, the fireworks display will be scheduled for July 7, 2017. In response, on April 6, 2017, the Coast Guard published a notice of proposed rulemaking (NPRM) titled "Special Local Regulations and Safety Zones; Recurring Marine Events and Fireworks Displays Within the Fifth Coast Guard District" (82 FR 16746). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended May 8, 2017, we received two comments. While the Coast Guard has made the determination to issue a temporary final rule concerning this year's fireworks display, USCG still plans to issue a final rule in the future to cover this recurring event in future years.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate

action is needed to respond to the potential safety hazards associated with a fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP has determined that potential hazards associated with the fireworks to be used in this July 3, 2017 display will be a safety concern for anyone on the Severn River near the end of the Sherwood Forest Club main pier. The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received two comments on our NPRM published April 6, 2017. Both comments addressed issues not related to this rulemaking. Therefore, there are no changes in the regulatory text of this rule from the proposed rule in the NPRM based on the comments received.

Details of the event were provided to the Coast Guard on May 15, 2017, that allowed the COTP to reassess the potential hazards associated with the fireworks to be used in this July 3, 2017 display. The area of the safety zone at the fireworks discharge site located at end of the Sherwood Forest Club main pier, listed in the Table to 33 CFR 165.506 under Coast Guard Sector Maryland-National Capital Region—COTP Zone as No. (b.)27, is reduced from a 200 yards radius to a 150 yards radius. As a result, there is one change in the regulatory text of this rule from the proposed rule in the NPRM. The safety zone will be reduced in size from 200 yards from the center point located at 39°01'54.0" N, longitude 076°32'41.8" W to a 150 yard radius.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and

Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of the Severn River for 2-1/2 hours during the evening when vessel traffic is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule might affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal

Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting approximately 2-1/2 hours that will prohibit entry within 150 yards of a fireworks discharge site at the end of the Sherwood Forest pier. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2-1 of Commandant Instruction M16475.ID. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 19133 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T05-0468 to read as follows:

§ 165.0468 Safety Zone; Severn River, Sherwood Forest, MD.

- (a) **Definitions.** As used in this section:

Captain of the Port Maryland-National Capital Region means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the safety zone described in paragraph (a) of this section.

(b) **Location.** The following area is a safety zone: all waters of the Severn River, within a 150 yards radius of a fireworks discharge site located at the end of Sherwood Forest Club main pier in approximate position latitude 39°01'54.0" N, longitude 076°32'41.8" W, Sherwood

Forest, MD. All coordinates refer to datum NAD 1983.

(c) Regulations. The general safety zone regulations found in subpart C of this part apply to the safety zone created by this section.

(1) All persons are required to comply with the general regulations governing safety zones found in § 165.23.

(2) Entry into or remaining in this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Maryland-National Capital Region. All vessels underway within this safety zone at the time it is implemented shall depart the safety zone.

(3) Persons desiring to transit the area of the safety zone must first obtain authorization from the Captain of the Port Maryland-National Capital Region or designated representative. To request permission to enter or transit the regulated area, the Captain of the Port Maryland-National Capital Region or designated representatives can be contacted at telephone number 410-576-2693 or on Marine Band Radio VHF-FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF-FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed. If permission is granted to enter the safety zone, all persons and vessels must comply with the instructions of the Captain of the Port Maryland-National Capital Region or designated representative and proceed as directed while in the zone.

(4) Enforcement officials. The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(d) Enforcement period. This section will be enforced from 8 p.m. through 10:30 p.m. on July 3, 2017, and if necessary due to inclement weather, from 8 p.m. through 10:30 p.m. on July 7, 2017.

Dated: June 22, 2017

M. W. Batchelder
Commander, U.S. Coast Guard
Acting Captain of the Port Maryland-National Capital Region.
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